

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF TEXAS

LONNIE WOOTEN,

Plaintiff,

versus

MARK L. DAVIS, ET AL.

Defendants.

CIVIL ACTION NO. 1:19-CV-227

**MEMORANDUM ORDER OVERRULING PLAINTIFF'S OBJECTIONS AND
ADOPTING THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION**

Plaintiff Lonnie Wooten, an inmate formerly confined at the Hardin County Jail, proceeding *pro se* and *in forma pauperis*, brought this lawsuit pursuant to 42 U.S.C. § 1983.

The court referred this matter to the Honorable Zack Hawthorn, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The Magistrate Judge recommends this action be dismissed as frivolous and for failing to state a claim upon which relief may be granted.

The court has received and considered the Report and Recommendation of United States Magistrate Judge filed pursuant to such referral, along with the record, pleadings and all available evidence. Plaintiff filed objections to the magistrate judge's Report and Recommendation. This requires a *de novo* review of the objections in relation to the pleadings and the applicable law. *See* FED. R. CIV. P. 72(b). After careful consideration, the court concludes Plaintiff's objections are without merit.

Plaintiff has failed to show the violation of a constitutional right regarding his claims asserted in this complaint. Additionally, Plaintiff's argument in his objections that his court-appointed attorney provided ineffective assistance of counsel is without merit. First, the argument is not related to any of the defendants in this action. Further, even if liberally construed as an attempt to add counsel as a defendant, any claim brought against his court-appointed attorney under § 1983 is without merit because the attorney is not a state actor. *See Mills v. Criminal Dist.*

Court No. 3, 837 F.2d 677, 679 (5th Cir. 1988) (“private attorneys, even court-appointed attorneys, are not official state actors, and generally are not subject to suit under section 1983”).

ORDER

Accordingly, Plaintiff’s objections are **OVERRULED**. The findings of fact and conclusions of law of the magistrate judge are correct, and the report of the magistrate judge is **ADOPTED**. A final judgment will be entered in this case in accordance with the magistrate judge’s recommendation.

SIGNED at Beaumont, Texas, this 22nd day of July, 2020.

A handwritten signature in black ink, reading "Marcia A. Crone", is positioned above a horizontal line.

MARCIA A. CRONE
UNITED STATES DISTRICT JUDGE